IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.V.K.BALI

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

Crl.Rev.Pet.No.285 of 1998(B)

CRL.A.NO.496/1994 OF THE COURT OF THE III ADDITIONAL SESSIONS JUDGE, ERNAKULAM.

C.C.91/1991 OF THE COURT OF THE JUDICIAL I CLASS MAGISTRATE, KOLENCHERRY.

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REVISION PETITIONERS/APPELLANTS/ACCUSED:-

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1. ISMAIL, S/O.PATHUMMA,
   KIZHAKKAN VETTIL HOUSE, VENGOLA VILLAGE,
   PERUMBAVOOR.

2. YOUSEFF, S/O.IBRAHIM, KIZHAKKAN VEETTIL HOUSE,
   VENGOLA KARA, VENGOLA VILLAGE, PERUMBAVOOR.

3. HASSANKUTTY, S/O.IBRAHIM,
   KIZHAKKAN VEETTIL HOUSE, VENGOLA VILLAGE,
   PERUMBAVOOR.

BY ADV. SRI.C.K.ABDUL RAHIM
SRI.MANSUR ALI

RESPONDENT/RESPONDENT/COMPLAINANT:-

STATE OF KERALA,
REP. BY SUB INSPECTOR OF POLICE,
PERUMBAVOOR.

BY PUBLIC PROSECUTOR SRI.P.RAVINDRA BABU.

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:-

V.K.Bali,C.J.

Crl.R.P.No.285 of 1998-B

Dated, this the 17th day of January, 2007

ORDER

V.K.Bali,C.J. (Oral)

The petitioners were tried for offences under Sections 341, 323 and 324 read with Section 34 of Indian Penal Code. Whereas, they were held guilty under Sections 323 and 324 read with Section 34, they were acquitted of the offence under Section 341 read with Section 34. They were sentenced to undergo simple imprisonment for six months under Section 324 and to pay a fine of Rs.1,000/- each under Section 323, as would be clear from the order dated 29th November, 1994 passed by the Judicial First Class Magistrate, Kolencherry. The appeal carried against the order aforesaid was dismissed, as would be clear from the order dated 16th February, 1998 passed by the III Additional Sessions Judge, Ernakulam. It is against these two orders that the present revision has been filed.

2. Without joining issues on the merits of the case, learned counsel representing the petitioners states that the present is the case of one injury each on P.Ws.1 and 2 and the incident pertains to the year 1989 and, thus, the petitioners have

already suffered a protracted trial spanned over a period of more than 17 years and, therefore, they may not be sent to serve a jail term at this stage.

3. Having heard learned counsel for the parties, this Court is of the view that ends of justice would be served if the petitioners, instead of serving the jail term, be asked to pay fine for the offence under Section 324 read with Section 34. In the circumstances of the case, thus, the Court orders that the petitioners would pay a fine of Rs.2,000/= (Rupees two thousand only) each within two months from today and would not serve jail term at this stage. The conviction and sentence recorded by the Courts below for the offence under Section 323 read with Section 34 are confirmed. Fine, if realised, would be made over to injured Kunjan Pillai (P.W.1) and Pareeth (P.W.2). In case fine is not paid, the petitioners would serve the sentence imposed by the Courts below.

The Criminal Revision Petition is disposed of as indicated above.

V.K.Bali
Chief Justice

vku/-